IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Appeal from Order No. 549 of 2005

Ram Chander S/o Hem Raj,
R/o Sal Bojhi No. 2 Van Carrier,
Pilibhit Road, Khatima,
P.S. Khatima,
District Udham Singh Nagar. ……. Appellant

Versus

1. Omkar Singh S/o Sri Mahipal Singh,
   R/o Sal Bojhi No. 3, Pilibhit Road,
   Khatima, P.S. Khatima,
   District Udham Singh Nagar.
2. United Insurance Ltd.,
   through Divisional Manager,
   Divisional Office Tikonia,
   Haldwani, District Nainital. ……. Respondents

Mr. S.C. Bhatt, Advocate for the appellant.
None for respondent No. 1.
Mr. D.S. Patni, Advocate for respondent No.2.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Rajesh Tandon, J.

RAJEEV GUPTA, C. J. (Oral)

This is claimant's appeal, preferred under Section 173 of the Motor Vehicles Act, for enhancement of the compensation awarded by Motor Accident Claims Tribunal / Addl. District Judge, Udham Singh Nagar (Rudrapur) vide Award dated 05.12.2003 passed in M.A.C.P. No. 105 of 2001.

2. Claimant Ram Chander claimed compensation of Rs. 5,00,000/-, by filing a claim petition under Section 166 of the Motor Vehicles Act, for the injuries sustained by him in the motor accident on 07.01.2001 when his Handcart was dashed by the Rajdoot Motorcycle bearing registration No. UP-04-0520 resulting in serious injuries to the claimant and extensive damage to his handcart. The

claimant pleaded that on account of the injuries sustained by him in the accident, he would not be able to pursue his occupation for a period of two years.

3. The motorcyclist-cum-owner and the insurer of the Motorcycle contested the claim and denied their liability to pay compensation to the claimant on the plea that the motorcyclist was not responsible for the accident and it was the negligence of the claimant, himself, which led to the accident.

4. The claimant examined PW1 Ram Chander, PW2 Ram Pal and PW3 Dr. Kalyan Singh in support of his claim, whereas the motorcyclist-cum-owner and the insurer of the Motorcycle did not examine any witness.

5. The Tribunal, on the evidence led by the parties, held that claimant Ram Chander sustained injuries in the motor accident on 07.01.2001; the accident occurred due to the rash and negligent driving of the Motorcyclist; and the insurer for the Motorcycle was liable to pay compensation to the claimant.

6. The Tribunal, considering the nature of the injuries sustained by the claimant in the accident and the evidence about the expenses incurred on treatment, awarded Rs. 1,000/- towards Medical Expenses and Rs. 5,000/- for Pain and Suffering. Thus, a total sum of Rs. 6,000/- was awarded as compensation to the claimant for the injuries sustained by him in the motor accident on 07.01.2001. The Tribunal, further directed the insurer of the Motorcycle to pay interest on the amount of compensation at the rate of 5% per annum from the date of the claim petition.

7. Mr. S.C. Bhatt, the learned counsel for the appellant submitted that the Tribunal has erred in awarding low compensation of

Rs. 6,000/- only though the claimant suffered multiple serious injuries in the accident.

8. Mr. D.S. Patni, the learned counsel for the respondent No. 2 United Insurance Company Ltd., on the other hand, supported the Award and submitted that as the claimant did not suffer any permanent disability on account of the injuries sustained by him in the motor accident, the compensation of Rs. 6,000/- awarded by the Tribunal is just and proper.

9. The findings recorded by the Tribunal that claimant Ram Chander sustained injuries in the motor accident on 07.01.2001; the accident occurred due to the rash and negligent driving of the Motorcyclist; and the insurer for the Motorcycle was liable to pay compensation to the claimant have, now, attained finality as the respondents have not filed any appeal against the Award.

10. Claimant Ram Chander sustained injuries in the accident is established from the evidence available on record. It has also come in the evidence that for the treatment of his injuries, the claimant had to remain hospitalised for a period of 11 days. The claimant claims to have spent a sum of Rs. 11,000/- on his treatment. It is a different matter that the expenditure on treatment to the extent of Rs. 11,000/- could not be established by him before the Tribunal by filing bills and vouchers. On account of the injuries sustained by the claimant, he could not pursue his occupation for a considerable period and suffered monetary loss. During the period of his hospitalisation, the claimant suffered physical pain and mental agony. The compensation of Rs. 6,000/- awarded by the Tribunal, when examined in the above context, is certainly on the lower side and deserves to be enhanced suitably. In our considered view, a lump sum of Rs. 21,000/- (Rupees Twenty One Thousand only), inclusive of the interest component,

would be just and proper compensation to the claimant for the injuries sustained by him in the accident.

11. For the foregoing reasons, the appeal filed by the appellant, under Section 173 of the Motor Vehicles Act, for enhancement of the compensation is allowed in part. The compensation of Rs. 6,000/- awarded by the Tribunal is enhanced to Rs. 21,000/- (Rupees Twenty One Thousand only), inclusive of interest.

12. The amount deposited by the Insurance Company in satisfaction of the impugned Award shall be given due adjustment by the Claims Tribunal. Second respondent United Insurance Company Ltd. is directed to deposit the balance amount before the concerning Claims Tribunal within a period of two months from today.

13. No order as to costs.

(Rajesh Tandon, J.) 09.11.2006

(Rajeev Gupta, C.J.) 09.11.2006

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